

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, OCTOBER 7, 1998
7:00 P.M.**

1. ROLL CALL

Present: Council Members - Johnson, Land, Mann, Pennino and Sieglock (Mayor)

Absent: Council Members - None

Also Present: City Manager Flynn, Deputy City Manager Keeter, Public Works Director Prima, Community Development Director Bartlam, City Attorney Hays and City Clerk Reimche

2. INVOCATION

The invocation was given by Layne Van Noy, Church of Jesus Christ of Latter-Day Saints.

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Sieglock.

4. AWARDS / PROCLAMATIONS / PRESENTATIONS

- a) Mayor Sieglock presented a proclamation celebrating the Lodi Sandhill Crane Festival on October 9 – 11, 1998 in the City of Lodi. No representatives were present at the meeting; therefore, the City accepted the proclamation on their behalf.
- b) Mayor Sieglock presented a proclamation to Shelby Young with the Loel Center proclaiming Saturday, October 24, 1998 as "Make a Difference Day" in the City of Lodi.
- c) Mayor Sieglock presented a proclamation to Parks Superintendent Dauber and to representatives of the Woodbridge Irrigation District and the East Bay Municipal Utility District proclaiming October 17, 1998 as the "Lodi Salmon Festival" in the City of Lodi.
- d) Mayor Sieglock presented a proclamation to Corinne Cervantes with the Women's Center proclaiming the month of October 1998 as "Domestic Violence Awareness Month" in the City of Lodi.
- e) Theo Vandenberg with the Lodi Arts Commission updated the City Council on the many activities of the Arts Commission.
- f) Robert Maus with the Lodi Senior Citizens Commission made a presentation regarding the Elder Abuse Conference being hosted by the Senior Citizens Commission at Hutchins Street Square, October 28, 1998.
- g) Rob Lechner, Chairperson with the Year 2000 Steering Committee, and JoAnne McLane Rantz, Donald Fraser and Jerry Adams with the Lodi Rotary Clubs, presented a report regarding the Crepe Myrtle tree program. Following additional discussion, the City Council, on motion of Mayor Sieglock, Johnson second, unanimously adopted Resolution No. 98-141, redesignating the Crepe Myrtle as the official tree of the City of Lodi.

5. RECESS

Mayor Sieglock called for a five-minute recess, and the City Council meeting reconvened at approximately 7:30 p.m.

6. CONSENT CALENDAR

In accordance with report and recommendation of the City Manager, Council, on motion of Council Member Pennino, Land second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

- a) Claims were approved in the amount of \$3,669,706.80.
- b) The minutes of September 15, 1998 (Special Meeting), September 16, 1998 (Regular Meeting), September 16, 1998 (Adjourned Special Meeting), September 18, 1998 (Joint Meeting with the East Side Improvement Committee), September 29, 1998 (Special Meeting) were approved as written.
- c) Approved the plans and specifications for Century Boulevard and Rivergate Drive electric utility substructures and authorized advertising for bids.
- d) Adopted Resolution No. 98-142 rejecting all bids for Lodi Lake Wading Pool, 1101 West Turner Road and authorized readvertising for bids.
- e) Adopted Resolution No. 98-143 authorizing the purchase of one digital voice recording system from Dictaphone Corporation of Sacramento in the amount of \$6,938.75 (this purchase will be made under the State of California's CMAS contract with Dictaphone) and approved transfer of funds from the Department's Operating Fund Balance.
- f) Adopted Resolution No. 98-144 awarding the bid for the purchase of ten polemount transformers and two padmount transformers to the bidders whose proposals and equipment met City of Lodi specifications, and whose transformers are expected to yield the lowest overall lifecycle costs:

Cooper Power Systems, Milwaukee, WI	3 ea 37.5KVA polemounts	\$ 2,259.52
Central Moloney, Pine Bluff, AR	7 ea 50KVA polemounts	\$ 6,584.60
G E Supply Co., Sacramento	2 ea 300KVA 3Ø padmounts	<u>\$14,360.92</u>
		\$23,205.04

- g) Adopted Resolution No. 98-145 authorizing the purchase of 13 personal computers, and the purchase of memory upgrades for an additional 11 PCs in the Finance Department, at a cost not to exceed \$19,940.00.
- h) Adopted Resolution No. 98-146 authorizing the purchase of equipment and software upgrades to the Finance Department's Itron meter reading system from Orcom Solutions of Bend, Oregon, and from Micron Electronics of Nampa, Idaho, for a cost of \$34,435.00.
- i) Adopted Resolution No. 98-147 awarding the security service contract to Ace's and Eight's Security Company of Lodi for the period of one year.
- j) Adopted Resolution No. 98-148 awarding the contract for Elm Street Reconstruction and Bike Lane Striping, Hutchins Street to Lower Sacramento Road to Granite Construction, of Stockton, in the amount of \$390,665.00, and appropriated funds in accordance with staff recommendation.
- k) Adopted Resolution No. 98-149 rejecting the bid proposal received from A. M. Stephens Construction Company and awarding the contract for Armory Park Improvements, 333 North Washington Street to Farwest Safety, Inc., of Lodi, in the amount of \$13,100, and appropriated funds in accordance with staff recommendation.

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- l) Accepted the improvements under "Lodi Lake Park Entrance Improvements, 1101 West Turner Road" contract and directed the City Engineer to file a Notice of Completion with the County Recorder's office.
- m) Accepted the improvements under the "Hutchins Street Square Conference and Performing Arts Center, 125 South Hutchins Street" contract, directed the City Engineer to file a Notice of Completion with the County Recorder's office and accepted the final Contract Change Orders for the project.
- n) Accepted the improvements under the "Legion Park Basketball Court, 835 South Hutchins Street" contract and directed the City Engineer to file a Notice of Completion with the County Recorder's office.
- o) Accepted the improvements under the "Type II Slurry Seal, Various City Street, 1998" contract and directed the City Engineer to file a Notice of Completion with the County Recorder's office.
- p) Took the following actions with regard to the Lodi West, Unit No. 3 subdivision:
 - Directed the City Manager and City Clerk to execute the improvement agreement addendum for Lodi West, Unit No. 3, on behalf of the City; and
 - Appropriated funds for required reimbursements.
- q) Agenda item #E-17 entitled, "Encroachment Permit and Hold Harmless Agreement for 2220 West Kettleman Lane" was removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.
- r) Adopted Resolution No. 98-150 approving the Pipeline Relocation Agreement with SFPP, L.P., for the relocation of a 10-inch petroleum-products pipeline, authorized the City Manager to sign the agreement on behalf of the City, and appropriated funds to cover the cost of the relocation.
- s) Agenda item #E-19 entitled, "Reclassification of one Associate Civil Engineer position to Senior Civil Engineer" was removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.
- t) Set Public Hearing for November 4, 1998, to consider the Federal Transit Administration (FTA) Fiscal Year 1998/99 Program of Projects application.
- u) Set Public Hearings for noon October 14, 1998, to be continued to the regularly scheduled meeting of October 21, 1998, to consider unmet transit needs in Lodi (both hearings will be held in the Carnegie Forum).
- v) Adopted Resolution No. 98-152 authorizing the City Manager to execute Amendment No. 1 and Revision 1 to Contract No. 94-SAO-00047 for funding of maintenance work at the Shasta Powerplant.
- w) Introduced Ordinance No. 1668 approving changes to the Electric Rate Schedule G1 (General Service – Group 1 Commercial/Industrial) to be effective on and after December 1, 1998, which will result in a net five percent reduction from the current rate schedule.
- x) Authorized the City to join the amicus brief in the case of Howard Jarvis Taxpayers Association et al. v. City of San Diego, Fourth District Court of Appeal No. D0313448.

- y) Adopted Resolution No. 98-153 providing direction with regard to the Burden of Proof applied in Municipal Administrative Proceedings conducted pursuant to §8.24.060(B) of the Lodi Municipal Code.
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7. ACTION ON ITEMS REMOVED FROM CONSENT CALENDAR

- a) Agenda item #E-17 "Encroachment Permit and Hold Harmless Agreement for 2220 West Kettleman Lane".

Public Works Director Prima prepared the following report:

The property owners, Oakmont Retirement Communities, LLC, have submitted a construction application (#13959) to obtain a Building Permit for the construction of a monument sign adjacent to the north property line (Kettleman Lane frontage) of the subject property. The sign structure will encroach on public utility easements, totaling 40 feet in width, adjacent to Kettleman Lane. There is a 30-inch industrial waste line and a 36-inch public storm drain line in the easements. The Public Works Department has approved the encroachment on the condition that the owners execute a Hold Harmless Agreement, which will be recorded in the County Recorder's office, and obtain written approval for the encroachment from other public utilities.

The Community Development Department has reviewed and approved the plans for the proposed sign. The owners have executed the Encroachment Permit application and required Hold Harmless Agreement, provided written authorization for the encroachment from PG&E, Pacific Bell, and MediaOne, and paid the necessary fees for recording the Hold Harmless Agreement.

Mayor Sieglock expressed a concern regarding site distance, and requested that staff look into the matter. Following further discussion, the City Council, on motion of Mayor Sieglock, Johnson second, unanimously approved the Encroachment Permit and Hold Harmless Agreement for 2220 West Kettleman Lane and directed the City Manager and City Clerk to execute the Agreement on behalf of the City.

- b) Agenda item #E-19 entitled, "Reclassification of one Associate Civil Engineer position to Senior Civil Engineer".

City Manager Flynn provided the following report.

A classification study has been conducted on the position of Associate Civil Engineer in accordance with the Rules for Personnel Administration. The study reveals that the incumbent in this position has been performing duties outside the scope of duties for the Associate Civil Engineer classification. Principally this position supervises other professional level engineers in the Development Services Section of the Engineering Division in the Public Works Department; and works independently at a mid-management level with other City departments, engineers, developers, business owners and property owners.

Following questions from Council Member Land to the City Manager, the City Council, on motion of Mayor Pro Tempore Land, Johnson second, unanimously adopted Resolution No. 98-151 approving the reclassification of one Associate Civil Engineer position to Senior Civil Engineer.

8. PUBLIC HEARINGS

None.

9. COMMUNICATIONS (CITY CLERK)

- a) On recommendation of the City's Risk Manager and/or the City's contract administrator, Insurance Consulting Associates, Inc. (ICA), the City Council, on motion of Council Member Pennino, Johnson second, unanimously rejected the following claims:
 - 1. Gladys Kauk, date of loss 6/16/98
 - 2. Rose Filippini, date of loss 7/2/98
 - 3. Michael Singh, date of loss 8/12/98
- b) City Clerk Reimche read the following ABC Licenses:
 - 1. Cherokee Mini Mart & Liquor, 401 South Cherokee Lane, Lodi, Off-Sale General, Stock Ownership
- c) The following report was presented to the City Council:
 - 1. Planning Commission report of September 9, 1998
- d) The City Council, on motion of Mayor Sieglock, Johnson second, unanimously made the following appointments to the Greater Lodi Area Youth Commission:

Greater Lodi Area Youth Commission

Adult advisors:

Jeff Fleak	Term to expire August 30, 1999
Stephen M. Simpson	Term to expire August 30, 2001

10. REGULAR CALENDAR

- a) Agenda item #H-1 entitled, "Amend Lodi Municipal Code Chapter 9 and 10 relative to vending of products and/or services on streets, sidewalks and private property".

Community Development Director Bartlam provided the following report.

For a number of months, staff has been responding to a variety of complaints associated to various vending operations. Typically, these have been in the form of catering trucks parked on public and private property. Many of these situations have become fixtures within parking lots, and unimproved right-of-ways throughout the community.

The ordinance proposed for City Council consideration provides a comprehensive set of regulations designed to protect public safety as well as provide a level playing field for all business enterprise to follow. The types of operations that would be affected by these requirements include: catering trucks, produce sales, ice cream vendors or the sidewalk sales of goods not associated with an adjacent retail location.

It is not the intent of this ordinance to prohibit this type of vending provided they keep mobile as they were originally designed. It is our desire, however, to not allow a vendor to essentially set up shop in a parking area in front of a business that provides an enclosed space and abides by all other zoning regulations. Exceptions to the rule include those businesses that have obtained an encroachment permit from the City Council to operate within the public right-of-way or for any sales conducted in connection with a state-certified open-air market.

Community Development Director Bartlam presented slides of various examples that would fall under this ordinance.

Mayor Sieglock pointed out that a letter had been received from Mr. Dale V. Thompson regarding this matter.

Speaking on the matter were the following persons:

1. Luis Magaña, representing OTAC, 445 West Weber Avenue #129, Stockton, expressed the importance of lunch wagons for the field workers and for the community. Mr. Magaña, who was speaking at the request of the farm workers, feels this ordinance will adversely affect their organization, and further expressed his opposition;
2. Virginia Lahr, 311 East Elm Street, Lodi, spoke in support of the ordinance, indicating that it would not affect the wagons in the field if they obtain the proper licenses and pay the sales tax as they are required to do;
3. Georgia Reichelt, 3605 East Louise, Manteca, expressed her strong opposition to this proposed ordinance and feels it goes against an individual's constitutional rights. She further commented that we have too much government, and if the trucks are not clean, then government is not doing its job;
4. Allan Levy, 8855 East Kettleman Lane, Lodi, questioned if the purpose of the regulation was to keep the trucks moving. The vendors do fill a need in the market place and do pay back some revenue to the City;
5. Camille Green, 405 East Pine Street, Lodi, stated her support of the proposed ordinance. Ms. Green is not opposed to catering trucks, as long as they keep moving like they are supposed to. Further, Ms. Green expressed a concern about how the food is prepared in these catering trucks;
6. Bruce Salisbury, 7650 East Realty Road, Lodi, questioned why the City is getting involved in catering trucks. Why is the City taking this away from the small businessman who works hard to make a living?;
7. Dr. Marcos Contreras, representing the League of United Latin American Citizens, expressed his strong opposition to this ordinance and feels that it will harm many Latinos. It is against American free enterprise, and it eliminates competition;
8. Virginia Snyder, 303 Louie Avenue, Lodi, spoke in support of the proposed ordinance, which she feels is very badly needed;
9. Jake Sanchez, 5637 East Jahant Road, Lodi, expressed his opposition to the proposed ordinance, and stated that is discriminatory. The catering trucks are checked regularly by numerous governmental agencies, the same as, if not more so than, restaurants; and
10. Guadalupe Avitia, LaBamba Restaurant, also spoke in opposition to the proposed ordinance. A 30-minute time limit for a catering truck is not sufficient.

Following a lengthy discussion, the City Council tabled the matter regarding modifications to the Lodi Municipal Code relative to vending on streets, sidewalks and private property, and directed staff to set a meeting with members of the vendor community to discuss this matter and return to the City Council.

11. ORDINANCES

- a) Ordinance No. 1664 entitled, "An Ordinance Of The Lodi City Council Authorizing An Amendment To The Contract Between The City Council Of The City Of Lodi And The Board Of Administration Of The Public Employee's Retirement System (PERS)" having been introduced at a regular meeting of the Lodi City Council held September 2, 1998 was brought up for passage on motion of Council Member Pennino, Land second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

Ayes: Council Members – Land, Mann, Pennino and Sieglock (Mayor)

Noes: Council Members – Johnson

Absent: Council Members – None

12. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- a) Robert Jusa, 122 West Oak Street #9, Lodi, spoke regarding CLP-Extract, a new treatment for menopausal syndromes and related consequences, andropausal syndrome and hormonal potenance. These symptoms cause a lack of memory and lack of energy.

13. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- a) City Manager Flynn updated the City Council regarding upcoming Hutchins Street Square events, and informed the City Council that former City Manager Hank Glaves and his wife Trude recently celebrated their 50th wedding anniversary.
- b) Council Member Pennino stated that he would like staff to work with downtown business merchants about the possibility of changing the direction of the downtown benches.
- c) Council Member Mann commented on the \$200,000 budget that was recently approved for electric utility advertisements, and questioned if a marketing plan had been developed. City Manager Flynn indicated that there is an overall plan that will be presented to the City Council in December. Council Member Mann suggested that expenses be kept down until there is a definitive plan in place.
- d) Mayor Pro Tempore Land questioned if there were any injuries to firefighters in yesterday's fire. City Manager Flynn provided an update.

Further, Mayor Pro Tempore Land responded to a concern that was received at a previous Council meeting regarding the X-rated Pay Per View channel distorting the visual, but not the audio. MediaOne has responded that they will take care of this situation on an individual basis.

Council Member Johnson suggested that instead of dealing with this matter on an individual basis, MediaOne should block the channel as a whole. Anyone wanting the channel can then call and ask for it. It was indicated that MediaOne does not have that technology.

- e) Mayor Sieglock announced that the City had been apprised that a new furniture store will be locating in Lodi in the near future at the old J.C.Penney building on School Street.
- f) Public Works Director Prima advised the City Council that he has received information indicating that the Lodi Unified School District will be requesting that the City provide sewer service to Woodbridge School pursuant to the annexation process. This matter was discussed briefly by Mr. Prima and members of the Lodi City Council.

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14. CLOSED SESSION

Mayor Sieglock adjourned the City Council meeting to a Closed Session to discuss the following matters:

- a) Conference with labor negotiator: Government Code §54957.6. Agency negotiator, Joanne Narloch. Employee organization, Lodi Police Dispatchers Association (LPDA)
- b) Actual litigation: Government Code §54956.9(a). One case. People of the State of California; and the City of Lodi, California v. Randtron, a dissolved California Corporation, Oldco Holz, Inc., a suspended, bankrupt, and defunct California Corporation, to the extent of their interest in the combined single limits of liability coverage under certain policies of insurance issued by Employers Insurance Of Wausau, A Mutual Company, United States District Court, Eastern District of California Case No. CIV-598-0620(DFL)(DAD)
- c) Actual litigation: Government Code §54956.9(a). One case. Fireman's Fund Insurance Company v. City of Lodi, et al., United States District Court, Eastern District of California Case No. CIV-S-98-1489 LKK PAN
- d) Prospective acquisition of 15 West Elm Street, Lodi, CA. The negotiating parties are City of Lodi and Frank Hall, owner. Government Code §54956.8

15. RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

The City Council meeting reconvened at approximately 9:40 p.m., and Mayor Sieglock disclosed that there were no final actions taken in these matters.

16. ADJOURNMENT

There being no further business to come before the City Council, Mayor Sieglock adjourned the meeting at approximately 9:40 p.m.

ATTEST:

Alice M. Reimche
City Clerk